

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

**THE STATE OF MISSISSIPPI, EX REL.
JIM HOOD, ATTORNEY GENERAL
FOR THE STATE OF MISSISSIPPI,**

Plaintiff,

V.

ENTERGY MISSISSIPPI, INC., ET AL.

Defendants.

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No. 3:08-cv-780-CWR-LRA

**STATE OF MISSISSIPPI’S URGENT AND NECESSITOUS MOTION TO
QUASH SUBPOENA AND NOTICE OF 30(b)(6) DEPOSITION OF
BATES WHITE, LLC, AND, ALTERNATIVELY,
FOR PROTECTIVE ORDER**

Plaintiff Jim Hood, Attorney General for the State of Mississippi (“Plaintiff”), through undersigned counsel, files this motion, pursuant to Fed. R. Civ. P. Rule 26(c) and Local Rule 7(b)(8) as an urgent and necessitous matter, and respectfully moves this Court to issue an emergency order quashing the subpoena and notice of deposition (Doc. 215) issued for the Rule 30(b)(6) deposition of, and production of documents by, Bates White, LLC (“Bates White”), Plaintiff’s expert witnesses’ consulting firm (herein, collectively, the “30(b)(6) Deposition Notice and Subpoena *duces tecum*”), and, alternatively, entering a Protective Order prohibiting the deposition, or alternatively, barring inquiry into certain irrelevant and/or privileged topics, and denying the subpoena *duces tecum* for the production of irrelevant documents.

PROCEDURAL BACKGROUND

Defendants issued the Notice of Rule 30(b)(6) Deposition and Subpoena *duces tecum* to Bates White, LLC (“Notice of Deposition”) (Doc. 215) on April 3, 2018, setting the deposition

for April 24, 2018, without contacting either Plaintiff or Bates White regarding its availability to produce a witness(es) on April 24, 2018 to comply with the Notice of Deposition. Defendants subsequently issued a subpoena under Fed. R. Civ. P. Rule 45 to Bates White, a copy of which is attached hereto and made a part hereof as **Exhibit “A”**, in conjunction with the Notice of Deposition on April 9, 2018. To the best of undersigned counsel’s knowledge, the subpoena was served on Bates White on April 10, 2018. The Notice of Deposition and subpoena, together, constitute the “30(b)(6) Deposition Notice”. Bates White is not a party to this litigation.

Dr. DeRamus is a partner with Bates White, and Dr. Yang is a principal of Bates White. Both Dr. DeRamus and Dr. Yang are expert witnesses for Plaintiff in this matter. Defendants deposed Dr. DeRamus in this matter on February 23, 2018 and deposed Dr. Yang in this matter on February 22, 2018. *See* copies of the Notices of Deposition for Dr. DeRamus (Doc. 204) and Dr. Yang (Doc. 203), respectively. Dr. DeRamus and Dr. Yang were questioned regarding a publicly available report prepared by others at Bates White for the Mississippi Public Service Commission (“MPSC”), dated August 27, 2012, in a separate MPSC proceeding (the “2012 Bates White Report”), which report and related topics are the subject of the 30(b)(6) Deposition Notice.

Dr. DeRamus and Dr. Yang were each questioned by Defendants in their depositions in this case regarding the 2012 Bates White Report. *See* excerpts of Dr. DeRamus’ deposition, attached hereto made a part hereof, *in globo*, as **Exhibit “B”**, and excerpts of Dr. Yang’s deposition, attached hereto made a part hereof, *in globo*, as **Exhibit “C”**.

RELIEF SOUGHT

Based upon the facts and the law set forth in the accompanying Memorandum Brief in Support of Plaintiff’s Motion to Quash, Plaintiff respectfully requests the Court to quash the subpoena for the 30(b)(6) deposition of Bates White and the associated notice of deposition and

corresponding subpoena *duces tecum* (the 30(b)(6) Deposition Notice), and to enter a Protective Order prohibiting the deposition of Bates White and denying production of the requested documents in this matter. In the alternative, and only in the event this Court declines to quash the 30(b)(6) Deposition Notice, Plaintiff requests the Court to enter a Protective Order prohibiting inquiry during any deposition of Bates White into certain irrelevant and/or privileged matters.

GOOD FAITH CERTIFICATE

Plaintiff transmitted a Good Faith Certificate to opposing counsel this day but has not received a response by the time this Motion to Quash was filed. Undersigned counsel did, however, inform opposing counsel on April 7, 2018, via email, that Plaintiff would oppose and move to quash the 30(b)(6) Deposition Notice. *See Exhibit “D”* attached hereto.

Respectfully submitted, this 10th day of April, 2018.

**STATE OF MISSISSIPPI, ex rel
JIM HOOD, ATTORNEY GENERAL**

**By: JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

/s/ VINCENT F. KILBORN, III

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CERTIFICATE OF SERVICE

I, Luke F. Piontek, Attorney for the State of Mississippi, do hereby certify that on April 10, 2018, I caused to be electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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This the 10th day of April, 2018.

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